

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 20513
[REDACTED],)	
)	DECISION
Petitioner.)	
_____)	

On August 15, 2007, the staff of the Tax Discovery Bureau of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayer) proposing income tax, penalty, and interest for the taxable years 2001 through 2005 in the total amount of \$96,875.

On September 7, 2007, the taxpayer filed a timely appeal and petition for redetermination. The taxpayer refused to attend a hearing and has not provided any other information in support of his position. The Tax Commission, having reviewed the file, hereby issues its decision.

The Tax Commission received a letter from the taxpayer that disapproved of the property tax assessment he received on his property [Redacted]. The letter contained language referencing fraud, extortion, and discrimination. The taxpayer also made derogatory comments about the tax system and state officials. The letter was referred to the Tax Discovery Bureau (Bureau).

The Bureau searched the Tax Commission's records and found that the taxpayer had not filed any Idaho income tax returns. The Bureau sent the taxpayer a letter asking him about his requirement to file Idaho income tax returns. The taxpayer replied that he was not required to file Idaho income tax returns and that he was fighting with the Internal Revenue Service (IRS)

over the same issue. He stated the IRS's charges and allegations were bogus, and the IRS was guilty of fraud, attempted extortion, and racketeering.

The Bureau obtained additional information [Redacted] and determined the taxpayer received income in excess of the filing threshold of Idaho Code section 63-3030. The Bureau prepared income tax returns for the taxpayer and sent him a Notice of Deficiency Determination. The taxpayer disagreed with the Bureau's determination. He stated he totally denies all of the alleged income the Bureau determined. He stated that contrary to the Bureau's assertions he lives in relative poverty. He demanded his right to face his accusers in a jury trial. The taxpayer stated he had no information to provide and that he could not prove a negative or something that does not exist.

The Bureau referred the matter for administrative review. The Tax Commission sent the taxpayer a letter that discussed the methods available for redetermining a protested Notice of Deficiency Determination. In his response to the letter, the taxpayer stated that he refused to accept the Tax Commission's invitation to attend a hearing in Boise. He stated the Bureau's determination of adjusted gross income was "crap" and that the Tax Commission was required to prove its accusations in a court of law. He stated further that it was his hope that the individuals working his case "spend eternity in hell for your lies and the stress that you [are] causing me." However, in all his vituperation, the taxpayer did not provide any information that supported his position of having no income for the years in question. Therefore, the Tax Commission decided the matter based upon the information available.

The Bureau obtained income information [Redacted] that showed the taxpayer had interest income, dividend income, and that he sold stocks and bonds in each of the years 2001 through 2005. In addition, the information showed the taxpayer received retirement income in

2001. The gross income for each of these years exceeded the filing threshold of Idaho Code section 63-3030. Therefore, the taxpayer was required to file Idaho income tax returns.

The Bureau determined the taxpayer's income by using the gross receipts or sales that were reported to the IRS. This method, although accurate for determining interest income, dividend income, and retirement income, does not accurately reflect the income from the sale of stocks and bonds. In Idaho, a State Tax Commission deficiency determination is presumed to be correct, and the burden is on the taxpayer to show that the deficiency is erroneous. Parsons v. Idaho State Tax Commission, 110 Idaho 572, 574-575 n.2, 716 P.2d 1344, 1346-1347 n.2 (Ct. App. 1986). The taxpayer has provided nothing other than a few statements saying he had no income to refute the Bureau's determination. He has not met his burden. However, the Tax Commission realizes that in a sales transaction of stocks and bonds the selling party generally has some basis in the stocks and bonds. The Tax Commission also acknowledges the fact that not all sales of stocks and bonds result in a gain. Taking these two factors into consideration, the Tax Commission finds it prudent under the circumstances to allow the taxpayer a basis in the stocks and bonds sold. The Tax Commission's allowed basis is probably far less than the taxpayer's actual basis in the majority of the taxpayer's stock transactions; nevertheless, it is far more than the basis information the taxpayer provided.

The Bureau added interest and penalty to the taxpayer's tax liability. The Tax Commission reviewed those additions and found them appropriate and in accordance with Idaho Code sections 63-3045 and 63-3046.

WHEREFORE, the Notice of Deficiency Determination dated August 15, 2007, is hereby MODIFIED, in accordance with the provisions of this decision and, as so modified, is APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayer pay the following tax, penalty, and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2001	\$ 1,317	\$ 329	\$ 482	\$ 2,128
2002	218	55	66	339
2003	217	54	54	325
2004	15,598	3,900	2,946	22,444
2005	17,238	4,310	2,216	<u>23,764</u>
			TOTAL DUE	<u>\$49,000</u>

Interest is computed to March 24, 2008.

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the petitioner's right to appeal this decision is enclosed with this decision.

DATED this _____ day of _____, 2008.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____, 2008, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[REDACTED]

Receipt No.